
MEMORANDUM

TO: Town Council
FROM: Eric Faison, Town Administrator
SUBJECT: Point Wells Annexation Interlocal Agreement
DATE: August 21, 2023
CC: Mike Quinn, Mayor

Background

Over the past ten months, the Town Council has directed staff to focus more intentionally on providing information and options that would allow the Council to ability to thoughtfully consider annexing Point Wells. This has included gathering information on public opinion, financial considerations, potential Town liability and legal risks, and options to effectuate an annexation. At each Council meeting since January, I have provided Council and the public with updates on these various topics, and Council has provided residents with an opportunity to comment.

Last October, the owner of Point Wells welcomed the opportunity to talk with the Town about the future of Point Wells, including the Town's potential annexation of the site. Those discussions have been cordial and informative. However, they have not led to an annexation or development proposal from the property owner.

Since January, I also have engaged Snohomish County, the City of Shoreline and Olympic View Water & Sewer District in negotiations on an interlocal agreement (ILA) that would provide the Town with the option of annexing Point Wells under RCW 35A.14.296. The statute provides a process through which the Town can effectuate the annexation of Point Wells by mutual agreement, without the property owner's consent. I have completed negotiations on the ILA and have included a draft of the document in the packet.

RCW 35A.14.296

Required Provisions

In addition to the general requirements of the Interlocal Cooperation Act (RCW 39.34.030), the ILA method of annexation contained in RCW 35A.14.296 includes a few necessary provisions.

1. The agreement must include the boundaries of the annexation area and the effective date of the annexation.
2. The agreement must set a date for public hearing(s) on the agreement.
3. The agreement must ensure that, for a period of five years after the annexation, any parcel zoned for residential development within the annexed area will maintain a zoning designation that provides for residential development; and the area shall not have its minimum gross

residential density reduced below the density allowed for by the zoning designation for that parcel prior to annexation.

The draft addresses each of these required provisions.

Required Public Process

The state statute also includes requirements for public process prior to adoption of the ILA.

1. Each participating legislative body, either separately or jointly, must hold a public hearing before the agreement is executed.
2. Each jurisdiction must publish a notice of availability of the agreement at least once a week for four weeks before the date of the public hearing.
3. Each jurisdiction must post the notice of availability of the agreement on its website for the same four-week period provided in #2 above, and the notice must describe where the public may review the agreement and the boundaries of the territory to be annexed.
4. On the date set for hearing, the public shall be afforded an opportunity to be heard.

Annexation

Following the public hearing and adoption of the ILA by each of the legislative bodies, the Town must submit a notice of intent with the Boundary Review Board. Boundary review boards have the authority to review and to approve, disapprove, or modify an annexation. Jurisdiction of the Board may be invoked by the Board itself under certain circumstances, by a request for review filed by a governmental entity affected by the proposed action, or by registered voters or property owners in the annexation area within 45 days of the submittal of the notice of intent. The Board must render a decision within 120 days of the filing of the request for review and within 40 days after the conclusion of last hearing on the proposal. After approval by the Board, the Town may elect to adopt an annexation ordinance, annexing Point Wells into the Town.

Under Section 3.1.2 of the ILA, the annexation will become effective the later of five (5) days after passage and publication of the Town's adoption of an annexation ordinance pursuant to RCW 35A.14.296, fifteen days (15) after the action is deemed approved under RCW 36.93.100, or January 1, 2024. In practical terms, this most likely means that the annexation will become effective five days after the Council adopts an annexation ordinance. Upon passage of the annexation ordinance, a certified copy shall be filed with Snohomish County.

Draft ILA – Key Provisions

Section 3.5 Interjurisdictional Coordination

This section requires the County to consider the impact of their land use decisions prior to annexation. It requires the County to impose mitigation for those impacts as requested by the Town and Shoreline.

Section 3.6 Public Hearings on Annexation

This section, which is required by the annexation laws, denotes the dates of the public hearings on the ILA that will be held by each party to the ILA.

Section 3.7 Consistency of Annexation with the agreements and RCW.

In this section, each jurisdiction affirms that the annexation does not adversely affect the health, safety and general welfare of the jurisdictions' residents or ratepayers.

Section 4 Amendment to the Master Annexation ILA

This section includes several amendments to the Town's ILA with the County. Most importantly, the changes reflect the fact that, since the date of the original ILA, the Town has adopted pre-annexation zoning, which the County finds consistent with its policies and regulations. The section also amends the ILA to commit the Town to compliance with the residential development conditions of the state annexation laws.

Section 5 Amendment to the Town-Shoreline ILA

This section is intended to clarify the process by which the Town will notify, consider, and in some cases impose mitigation requests made by the City of Shoreline for plans, development regulations, project permit applications, and non-conforming use designations made by the Town related to Point Wells, when there may be impacts to Shoreline's transportation infrastructure and public facilities. When the Town imposes mitigation as requested by Shoreline, Shoreline agrees to indemnify and defend the Town in any legal dispute arising from the imposition of such mitigation. The section also states that the cities will work collaboratively to identify and consider other ways to address such impacts for developments more broadly within each city. Lastly, the section addresses impacts from the expansion or modification of vested permits.

Section 11 Effective Date, Duration and Termination

The ILA lasts through the end of 2030. Any party can terminate the agreement with 180 days written notice.

General Terms

Most of the remaining sections are general terms contained in numerous agreements.

Next Steps

If Council decides to proceed, the next step would be for each jurisdiction to establish a date for public hearing. It is likely that Shoreline will have a public hearing on September 25. I do not yet have firm dates for either the County or Olympic View, although I believe that the County's public hearing will likely be in October. Once all of the dates are established, the ILA will be advertised for public hearing.